IOWA UTILITIES BOARD
Telecommunications Section

Docket No.: RMU-2014-0003
Utilities: All Local Exchange Carriers
Memo Date: May 8, 2014

TO: The Board

FROM: Michael Balch

SUBJECT: Local Exchange De-tariffing and Creation of Stakeholder Group to Amend Telephone Rules

Background: On April 25, 2014, Governor Branstad signed S.F. 2195 into law. S.F. 2195 amends various sections of Iowa Code §§ 476 and 477 to address regulatory provisions relevant to an increasingly competitive telecommunications industry.

One of the foremost changes in S.F. 2195 is the elimination of retail tariff requirements for local exchange carriers. The new law, which takes effect on July 1, 2014, requires local exchange carriers to de-tariff their retail services anytime between the effective date of the statute and January 1, 2015.[1]

The Board's telephone rules in 199 IAC chapter 22 currently contain retail tariff requirements, and these rule provisions will need to be stricken through a rule making proceeding. However, it is possible that some local exchange carriers will choose to de-tariff their retail services before the Board can complete a rule making proceeding. Thus, there appears to be a need for the Board to issue an order to provide guidance on retail de-tariffing and to begin the process for changing the rules.

Information on De-tariffing: The informational order should provide the following details about retail de-tariffing to the local exchange carrier industry:

1. Between July 1, 2014, and January 1, 2015, all local exchange carriers (LEC) should file a notice with the Board prior to withdrawing their retail tariffs. Upon receipt of the de-tariffing notice in the Board's electronic filing system (EFS), the Records and Information Center will assign a TF docket number to the de-tariffing notice.

[1] See Iowa Code § 476.4(2) which eliminates retail tariff requirements but retains wholesale tariff requirements.

2. After a notice has been filed, the classification of the LEC's retail tariff will be changed from "current" to "withdrawn" in the Board's EFS. There will be no change to the classification of the LEC's wholesale or access tariff.

3. Within 30 days of the filing of the notice, the Board's telecommunications staff will issue a letter indicating that the retail de-tariffing is complete.

4. New applications for local exchange telephone certificates should no longer include a proposed local exchange tariff. Iowa Code § 476.29(2) requires the Board to act on applications for certificate within 90 days. Any application filed after the date of the informational order would not be due until after the July 1 effective date of S.F. 2195.

5. In the absence of retail tariffs, the order should indicate that LECs are encouraged to preserve previously-tariffed information in another medium for access by customers. For example, the exchanges where a LEC provides service, or the LEC's customer service rules, could be preserved on a website or in a catalog.

6. Finally, the informational order should indicate that S.F. 2195 requires LECs to continue to provide notices to customers of rate changes even though local telephone rates are not regulated in Iowa.[2] Thus, LECs should continue to make informational filings in EFS along with copies of notices sent to customers when rate changes occur.

New Rules and Stakeholder Group: Besides the striking of retail tariffing requirements pursuant to S.F. 2195, there are other telephone issues that may need to be addressed in a rule making. For example, retail tariffs typically provide provisions describing "limits on liability." Under the filed tariff doctrine, such provisions become binding once a tariff is approved. With retail de-tariffing, there may be good reason to now include such provisions in the rules.

Additionally, there are rules that have become obsolete since the Board's last general telecom rule making in Docket No. RMU-08-6. For example, the intrastate access rules under 199 IAC 22.14(2) provide that a three cents per minute carrier common line charge (CCLC) may be assessed on both originating and terminating exchange access. However, the FCC's Transformation Order has now eliminated the Board's authority to approve a terminating CCLC, and the Board's authority to approve an originating CCLC will likely be eliminated in the future. There are probably a number of other rules in 199 IAC chapter 22 in need of revision, and the Board would benefit by obtaining industry input before initiating a rule making.

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[2] Iowa Code § 477.9A states that a "telephone company whose services are subject to regulation by the board with respect to terms and conditions, but not rates, shall give notice of rate changes to customers."

Staff recommends that the informational order create a stakeholder group to gather input necessary to implement S.F. 2195 as well as input on other needed rule changes in 199 IAC chapter 22. The stakeholder group would be formed by the Board's staff e-mailing the informational order to all regulatory contacts. The informational order would request that any stakeholder group input be submitted within 21 days. After the stakeholder group input is gathered, it would be incorporated into a notice of proposed rule making to be issued by the Board.

Staff Contacts: The order should identify the following staff for questions regarding the de-tariffing of local services or the formation of the stakeholder group for gathering input on amending 199 IAC chapter 22.

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Recommendation: The Board should issue the attached informational order regarding local exchange de-tariffing and the creation of a stakeholder group for gathering input on amending 199 IAC chapter 22. The order requests that stakeholder group input be filed in this docket within 21 days of the issuance of the order.

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